

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

GARY HARPER,

Plaintiff,

v.

BOARD OF PRISON COMMISSIONERS,
et al.,

Defendants.

Case No. 3:13-cv-00644-MMD-WGC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (dkt. no. 18) ("R&R") relating to Defendants' Motion for Summary Judgment (dkt .no. 16). No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,

1 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
2 view that district courts are not required to review "any issue that is not the subject of an
3 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
4 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
5 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
6 which no objection was filed).

7 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
8 determine whether to adopt Magistrate Judge Cobb's R&R. The Magistrate Judge
9 recommended that Plaintiff's claims be dismissed without prejudice for his failure to
10 exhaust his administrative remedies. Upon reviewing the R&R, Defendants' Motion and
11 the other filings in this case, this Court finds good cause to adopt the Magistrate Judge's
12 R&R in full.

13 It is therefore ordered, adjudged and decreed that the Report and
14 Recommendation of Magistrate Judge William G. Cobb (dkt. no. 18) is accepted and
15 adopted in its entirety. Defendants' Motion for Summary Judgment (dkt. no. 16) is
16 granted. Plaintiff's claims are dismissed without prejudice for his failure to exhaust his
17 administrative remedies. Dismissal is without prejudice to Plaintiff filing a separate action
18 after he has exhausted his administrative remedies. The Clerk is instructed to close this
19 case.

20 DATED THIS 20th day of January 2015.

21
22 

23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
25
26
27
28